## DETAILED ACTION

### *Prosecution History Summary*

Claims 1-16, and 33 have been canceled.

Claims 17-32 and 34-36 are pending.

### *Response to Arguments*

In view of the Amendment made After Final filed on 4/23/2008 **PROSECUTION IS HEREBY REOPENED**. New grounds of rejection are set forth below.

Applicant's arguments regarding the date of the Wheeler reference and Applicant's priority to provisional application 60/184,312 filed 2/23/2000 is persuasive. The rejections under 35 USC 103(a) over Wheeler in view of Davis are hereby withdrawn. In addition, the Examiner notes the following:

On page 2-3 of Applicant's remarks, Applicant attempts to establish that the closing server is analogous to a computer readable medium and further that at least one standard closing condition and at least one custom closing condition are analogous to encoded data structure. A server, as defined by the Microsoft Press Computer Dictionary, is a computer running administrative software that controls access to the network and its resources such as printers, disk drives, or the like. As claimed, Applicant's server comprises a closing database, the database comprising the closing module which comprises the aforementioned closing conditions, a title insurance module and additional limitations regarding the title insurance module. In other words, the server comprises and provides access to a database that stores the closing module and closing conditions. With this in mind, it then becomes apparent that the closing module and

associated closing conditions are nothing more than information stored in the closing database. Similarly, the title insurance module and its associated limitations also constitute data that is merely stored. In this regard, these modules and their associated features fail to impart any specific functionality to the closing server and represent non-functional descriptive material. The structural limitations thereby required by the claim include the closing server, the closing database, and the at least one computer processor.

As discussed in the interview held May 20, 2008, recitation that each module is executed to provide the desired functionality of the server would suffice to impart the necessary functionality to make these limitations functionally descriptive. For example, amending the claim to read "a closing module executed on the closing server, wherein the closing module presents at least one selectable standard condition and at least one selectable custom closing condition…". Similarly, amendments may be made to show the title insurance module is executed, and thereby imparts the desired functionality.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**1. Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claims 28 recites the limitation "the at lest one financial identifier" and "the at least one county registrar identifier". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**2. Claim 17, 19-23, 26-27, 29-32, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broerman (US 20040054606).**

**Regarding claim 17,** Broerman teaches a closing system for closing real estate transactions comprising:

*a closing server adaptable to internet communications* (see at least: 0031, Fig. 1 and 3) *wherein the closing server comprises:*

*a closing database* (see at least: 0091, Fig. 10); Note: the relevant database(s) stores and updates necessary closing information such as contract contingencies, dates and inputs, etc.

*at least one computer processor having identity verifier logic and resources for verifying the identities of the plurality of parties* (see at least: 0059-0061).

In addition to the above, claim 17 recites a closing module, standard closing conditions, custom closing conditions, a title insurance module, etc. This information, however, fails to functionally interrelate to the remainder of the claim and merely represents the type of data stored in the closing database. The mere type of data stored, however, fails to add patentable weight to distinguish the claimed invention from the

prior art. This information is thereby considered non-functional descriptive material and would have been obvious to one of ordinary skill in the art.

**Regarding claims 19-20, 24-25** Broerman teaches:

**(19)** *wherein the identity-verifier logic and resources for verifying the identities of the plurality of parties further comprises logic and resources for associating an electronic signature of each of the plurality of parties with closing the real estate transaction* (see at least: 0042).

**(20) and (24)** *at least one internet browser client, wherein the at least one internet browser client is adaptable to internet connecting with the closing server, wherein the at least one browser client comprises means for selecting at least one of the plurality of selectable standard closing conditions* (see at least: 0010, 0042, 0051, 0063, 0076, Figures 5B and 10).

**(25)** *an internet connection with at least one title insurance company associated with at least on of the plurality of title insurance company identifying information* (see at least: abstract, 0005, 0040, 0053, 0056, claims 6 and 38).

**Regarding claims 21-23, 26-27, 29-32, and 34-36,** the Examiner notes that these claims represent nonfunctional descriptive material similar to that as noted above and do not add patentable weight to the claims.

**3. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broerman in view of Davis (US 6219423).**

**Regarding claim 18,** Broerman teaches all of the above but does not expressly teach using encryption technology for identity verification. In the same field of endeavor, Davis also teaches at least on computer processor having identity verifier logic and resources for verifying the identities of the plurality of parties (see at least: abstract, col. 2 line 54-col. 3 line 32, col. 5 lines 45-65, Fig. 4-5 and 10). Moreover, Davis teaches *wherein the verifier logic and resources for verifying the identities of the plurality of parties further comprises encryption logic and resources for verifying the identities of the plurality of parties* (see at least: Davis, abstract, col. 2 line 54-col. 3 line 32, col. 5 lines 45-65, Fig. 4-5 and 10). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Broerman to have included such features as taught by Davis in order to provide a system for digitally signing a digital agreement in a manner which precludes fraudulent withholding of the fully signed digital agreement and thereby reduces the risk associated with execution of digital agreements (see at least: col. 4 lines 1-4 and 60-65).

**4. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broerman in view Erlanger (US 20030055778).**

**Regarding claim 28,** Broerman teaches all of the above as noted but does not expressly teach an *internet connection with at least one financial lender associated with the at least one financial lender identifier*. In the same field of endeavor, Erlanger teaches a data processing system for provisioning loans via a computer network such as the internet (see at least: abstract). Erlanger further teaches *an internet connection with at least one financial lender associated with at least one financial lender identifier* (see at least: 0066, 0075, Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Broerman to have included such features as taught by Erlanger because the incorporation of such features is no more than the combination of known prior art elements according to their established function yielding predictable results.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM J. ALLEN whose telephone number is (571)272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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